

AMENDED IN SENATE JULY 3, 2014
AMENDED IN SENATE JUNE 18, 2014
AMENDED IN SENATE JUNE 9, 2014
AMENDED IN SENATE SEPTEMBER 6, 2013
AMENDED IN SENATE AUGUST 22, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1399

Introduced by Assembly Members Medina and V. Manuel Pérez

March 11, 2013

An act to add Section 26011.9 to the Public Resources Code, and to amend Section 18410.2 of, and to add and repeal Sections 12283, ~~17053.9~~ 17053.9, and 23622.9 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, as amended, Medina. Income taxation: insurance taxation: credits: California New Markets Tax Credit.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing law also creates the California Competes Tax Credit Committee, which has specified duties in regard to tax credits for economic development.

Existing law imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates.

This bill would allow a credit under the Personal Income Tax Law and the Corporation Tax Law, and a credit against the tax imposed on

an insurer, in modified conformity with a federal New Markets Tax Credit, for taxable years beginning on or after January 1, 2015, and before January 1, 2027, in a specified amount for investments in low-income communities. The bill would limit the total annual amount of credit allowed pursuant to these provisions to an amount equal to any portion not granted under a specified sales and use tax exclusion, not to exceed \$40,000,000 per calendar year, and would limit the allocation of the credit to a cumulative total of no more than \$200,000,000, as provided. This bill would impose specified duties on the California Competes Tax Credit Committee with regard to the application for, and allocation of, the credit. The bill would require the committee to establish and impose reasonable fees upon entities that apply for the allocation of the credit and use the revenue to defray the cost of administering the program, as specified, thereby making an appropriation.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) While many areas of California have recovered from the
- 3 economic and community development impacts of the 2006
- 4 Financial Crisis and the 2010 global recession, Californians in a
- 5 number of communities and neighborhoods are still experiencing
- 6 their lingering effects. In some cases this has resulted in small and
- 7 medium businesses in low-income areas lacking sufficient access
- 8 to capital and technical assistance. Given that the state has many
- 9 needs and limited resources, moneys from the private sector are
- 10 necessary to fill this capital and investment gap.
- 11 (b) Initially enacted in 2000, the federal government established
- 12 the New Markets Tax Credit (NMTC) Program, which uses a
- 13 market-based approach for expanding capital and technical
- 14 assistance to businesses in lower income communities. The federal
- 15 program is jointly administered by the Community Development
- 16 Financial Institutions Fund (CDFI Fund) and the Internal Revenue
- 17 Service. The NMTC Program allocates federal tax incentives to
- 18 community development entities (CDE), which they then use to
- 19 attract private investors who contribute funds that can be used to

1 finance and invest in businesses and develop real estate in
2 low-income communities. Through May 2013, the CDFI Fund had
3 awarded approximately \$36,500,000,000 in NMTC in 749 awards
4 including \$3,000,000,000 in American Recovery and Investment
5 Act of 2009 awards and \$1,000,000,000 of special allocation
6 authority to be used for the recovery and redevelopment of the
7 Gulf Opportunity Zone.

8 (c) The federal NMTC totals 39 percent of the original
9 investment amount in the CDE and is claimed over a period of
10 seven years (5 percent for each of the first three years, and 6
11 percent for each of the remaining four years). The investment by
12 the taxpayer in the CDE redeemed before the end of the seven-year
13 period will be recaptured.

14 (d) Fourteen states in the United States have adopted state
15 programs using the NMTC model including Alabama, Florida,
16 Illinois, Nevada, and Oregon. While some of the programs
17 substantially mirror the federal program, others vary in both the
18 percentage of the credit and some of the policies that form the
19 foundation of the credit. One of the reasons cited for establishing
20 state-level programs is to make their state more attractive to CDEs,
21 which results in increasing the amount of federal NMTCs being
22 utilized in their state. Further, several studies, including a January
23 1, 2011, case study by Pacific Community Ventures, showed that
24 for every dollar of forgone tax revenue, the federal NMTC
25 leverages \$12 to \$14 of private investment.

26 SEC. 2. Section 26011.9 is added to the Public Resources Code,
27 to read:

28 26011.9. The authority shall make a determination of the
29 amount of the one hundred million dollars (\$100,000,000) in
30 exclusions not granted in the assigned calendar year pursuant to
31 Section 26011.8. An amount equal to that amount shall be granted
32 in the subsequent calendar year through the California New
33 Markets Tax Credit Program pursuant to Sections 12283, 17053.9,
34 and 23622.9 of the Revenue and Taxation Code. This section shall
35 not prevent a taxpayer granted an exclusion pursuant to Section
36 6010.8 of the Revenue and Taxation Code from applying for, and
37 receiving a refund for, taxes paid under Part 1 (commencing with
38 Section 6001) of Division 2 of the Revenue and Taxation Code.

39 SEC. 3. Section 12283 is added to the Revenue and Taxation
40 Code, to read:

12283. (a) There is hereby created the California New Markets Tax Credit Program as provided in this section, Section 17053.9, and Section 23622.9. The purpose of this program is to stimulate private sector investment in lower income communities by providing a tax incentive to qualified community and economic development entities that can be leveraged by the entity to attract private sector investment that in turn will be deployed by providing financing and technical assistance to ~~small and medium-size~~ *small- and medium-size* businesses and the development of commercial, industrial, and community development projects, including, but not limited to, facilities for nonprofit service organizations, light manufacturing, and mixed-use and transit-oriented development. The California Competes Tax Credit Committee shall administer this program as provided in this section, Section 17053.9, and Section 23622.9.

(b) (1) For taxable years beginning on or after January 1, 2015, and before January 1, 2027, there shall be allowed as a credit against the tax described in Sections 12201, 12204, 12206, and 12209, an amount determined in accordance with Section 45D of the Internal Revenue Code, as amended by Public Law 111-5, Public Law 111-312, and Public Law 112-240, as modified as set forth in this section.

(2) This credit shall be allowed only if the taxpayer holds the qualified equity investment, or has been allocated a credit pursuant to paragraph (3), on the credit allowance date and each of the six following anniversary dates of that date.

(3) A tax credit allowed under this section shall not be sold and is not a refundable credit. Tax credits allowed or allocated to a partnership, limited liability company, or “S” corporation may be allocated to the partners, members, managers, or shareholders of such entity for their use in accordance with the provisions of any agreement among such partners, members, managers, or shareholders. Such allocations shall not be considered a sale for the purposes of this section.

(c) Section 45D of the Internal Revenue Code is modified as follows:

(1) (A) The references to “the Secretary” in Section 45D of the Internal Revenue Code are modified to read “the committee.”

1 (B) For purposes of this section, “committee” means the
2 California Competes Tax Credit Committee established under
3 Section 18410.2.

4 (2) Section 45D(a)(2) of the Internal Revenue Code, relating to
5 applicable percentage, is modified by substituting for “(A) 5
6 percent with respect to the first 3 credit allowance dates, and (B)
7 6 percent with respect to the remainder of the credit allowance
8 dates” with the following:

9 (A) Zero percent with respect to the first two credit allowance
10 dates.

11 (B) Seven percent with respect to the third credit allowance
12 date.

13 (C) Eight percent with respect to the remainder of the credit
14 allowance dates.

15 (3) Section 45D(b)(3) of the Internal Revenue Code, relating
16 to safe harbor for determining use of cash, is modified by
17 substituting “qualified low-income community investments in
18 California” for “qualified low-income community investments.”

19 ~~(4)~~

20 (4) (A) Section 45D(c)(1) of the Internal Revenue Code,
21 relating to qualified community development entities, is modified
22 to additionally include:

23 ~~(A)~~

24 (i) A subsidiary community development entity of any such
25 qualified community development entity.

26 ~~(B)~~

27 (ii) A nonprofit organization, pursuant to Section 23701,
28 certified by the committee as having a primary mission of serving
29 or providing investment capital in low-income communities and
30 the entity maintains accountability to residents of low-income
31 communities through their representation on any governing board
32 of the entity or on an advisory board of the entity. The committee
33 shall establish guidelines for certifying nonprofit organizations
34 pursuant to this subparagraph. The committee may include
35 reasonable conditions on the certification to effectuate the intent
36 of this section and may suspend or revoke a certification, after
37 affording the nonprofit organization notice and the opportunity to
38 be heard, if the committee finds that the nonprofit organization no
39 longer meets the requirements for certification. *Such nonprofit*

1 organization is not subject to the requirement of subparagraph
2 (B).

3 (B) Section 45D(c)(1) of the Internal Revenue Code, relating
4 to a qualified community development entity, is modified to only
5 include a qualified community development entity that has entered
6 into an allocation agreement with the Community Development
7 Financial Institutions Fund of the United States Treasury
8 Department, with respect to credits authorized by Section 45D of
9 the Internal Revenue Code, that includes California within the
10 service area and is dated on or after January 1, 2012.

11 (5) Section 45D(d)(1)(A) of the Internal Revenue Code, relating
12 to qualified low-income community investments, is modified to
13 only include any capital or equity investment in, or loan to, a
14 qualified active low-income community business.

15 (6) The term “qualified active low-income community business,”
16 as defined in Section 45D(d)(2) of the Internal Revenue Code, is
17 modified as follows:

18 (A) Section 45D(d)(2)(A)(i) of the Internal Revenue Code,
19 relating to qualified active low-income community businesses, is
20 modified by substituting “any low-income community in
21 California” for “any low-income community.”

22 (B) Section 45D(d)(2)(A)(ii) of the Internal Revenue Code,
23 relating to qualified active low-income community businesses, is
24 modified as follows:

25 (i) Substituting “any low-income community in California” for
26 “any low-income community.”

27 (ii) In determining whether the qualified active low-income
28 community business uses a substantial portion of its tangible
29 personal property within any low-income community, the term
30 “substantial portion” shall mean “at least 40 percent” as calculated
31 by the average value of the tangible property owned or leased and
32 used within a California low-income community by the entity
33 divided by the average value of the total tangible property owned
34 or leased and used by the entity in California during the taxable
35 year. The value assigned to the leased property by the entity must
36 be reasonable.

37 (iii) Adding the provision that if the business meets the
38 requirements of a qualified low-income community business at
39 the time the investment is made, the business shall continue to

1 satisfy the requirements of Section 45D(d)(2)(A)(ii) for the duration
2 of the investment.

3 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,
4 relating to qualified active low-income community businesses
5 ~~which limits the services of employees to substantially those~~
6 ~~performed within the business, a substantial portion of the services~~
7 ~~of which are performed in a low-income community, shall not~~
8 ~~apply to a qualified community development entity that does not~~
9 ~~hold a federal new markets tax credit is modified to allow the~~
10 ~~services of employees of a service-based qualified business to be~~
11 ~~performed outside the low-income community. A service-based~~
12 ~~qualified business is a business that primarily earns revenue~~
13 ~~through providing intangible products and services.~~

14 (D) An entity complies with Section 45D(d)(2)(A)(i) of the
15 Internal Revenue Code, relating to qualified active low-income
16 community business, if, as calculated in subparagraph (B), it uses
17 50 percent of its tangible property, whether owned or leased, within
18 any low-income community for any taxable year.

19 (E) (i) A qualified active low-income community business shall
20 exclude any business that derives, or projects to derive, 15 percent
21 or more of its annual revenue from the rental or sale of real estate.
22 This exclusion does not apply to a business that is controlled by,
23 or under common control with, another business if the second
24 business: (I) does not derive or project to derive 15 percent or more
25 of its annual revenue from the rental or sale of real estate; and (II)
26 is the primary tenant of the real estate leased from the first business.

27 (ii) A qualified active low-income community business shall
28 only include a business that, at the time the initial investment is
29 made, has 250 or fewer employees and is located in a California
30 low-income community. The operating business shall meet all
31 other conditions of a qualified active low-income business, except
32 as modified by this paragraph and paragraph (7).

33 (iii) *A qualified active low-income community business shall*
34 *only include a business located in census tracts with a poverty rate*
35 *greater than 30 percent, or census tracts, if located within a*
36 *non-metropolitan area, with a median family income that does not*
37 *exceed 60 percent of median family income for the State of*
38 *California, or census tracts, if located within a metropolitan area,*
39 *with a median family income that does not exceed 60 percent of*
40 *the greater of the California median family income or the*

1 *metropolitan area median family income, or census tracts with*
2 *unemployment rates at least 1.5 times the national average.*

3 (7) Section 45D(e)(1) of the Internal Revenue Code, relating to
4 determining the eligible low-income community, is modified to
5 add the following: “When the United States Census Bureau
6 discontinues using the decennial census to report median family
7 income on a census tract basis, census block group data shall be
8 used based on the American Community Survey.”

9 (8) The following shall apply in lieu of the provisions of Section
10 45D(f)(1) of the Internal Revenue Code, relating to national
11 limitation on amount of investments designated: “The aggregate
12 amount of credit that may be allocated in any calendar year
13 pursuant to this section, Section 17053.9, and Section 23622.9
14 shall be an amount equal to any unused portion of the one hundred
15 million dollars (\$100,000,000) in exclusions, authorized pursuant
16 to Section 6010.8, as determined by the California Alternative
17 Energy and Advanced Transportation Financing Authority and
18 reported to the committee, not to exceed forty million dollars
19 (\$40,000,000). The committee shall limit the allocation of credits
20 permitted under this section, Section 17053.9, and Section 23622.9
21 to a cumulative total of no more than two hundred million dollars
22 (\$200,000,000). Any unused credits shall be returned to the
23 committee on March 1 of the year following allocation and the
24 value of the unused credit shall be available for allocation in the
25 following calendar years in accordance with the application
26 process. Any recaptured credits shall be returned to the committee
27 by March 1 of the year following recapture and the value of the
28 recaptured credit shall be available for allocation in the following
29 calendar years in accordance with subparagraph (B) of paragraph
30 (9). Reallocation credits shall not count against the forty million
31 dollars (\$40,000,000) annual limit or the two hundred million
32 dollars (\$200,000,000) cumulative limit.”

33 (9) Section 45D(g)(3) of the Internal Revenue Code, relating
34 to recapture event, does not apply and is replaced with the
35 following:

36 (A) The committee shall recapture, from the entity that claimed
37 the credit on a return, the tax credit allowed under this section if
38 any of the following:

39 (i) Any amount of a federal tax credit available with respect to
40 a qualified equity investment that is eligible for a credit under this

1 section is recaptured under Section 45D of the Internal Revenue
2 Code. In such case the committee's recapture shall be proportionate
3 to the federal recapture with respect to such qualified equity
4 investment.

5 (ii) The qualified community development entity redeems or
6 makes principal repayment with respect to a qualified equity
7 investment prior to the seventh anniversary of the issuance of such
8 qualified equity investment. In such case the committee's recapture
9 shall be proportionate to the amount of the redemption or
10 repayment with respect to such qualified equity investment.

11 (iii) The qualified community development entity fails to invest
12 an amount equal to at least 85 percent of the purchase price of the
13 qualified equity investment in qualified low-income community
14 investments in California within 12 months of the issuance of the
15 qualified equity investment and maintain at least 85 percent of
16 such level of investment in qualified low-income community
17 investments in California until the last credit allowance date for
18 the qualified equity investment. For purposes of this section, an
19 investment shall be considered held by a qualified community
20 development entity even if the investment has been sold or repaid
21 if the qualified community development entity reinvests an amount
22 equal to the capital returned to, or recovered by, the qualified
23 community development entity from the original investment,
24 exclusive of any profits realized, in another qualified low-income
25 community investment within 12 months of the receipt of such
26 capital. Periodic amounts received as repayment of principal
27 pursuant to regularly scheduled amortization payments on a loan
28 that is a qualified low-income community investment shall be
29 treated as continuously invested in a qualified low-income
30 community investment if the amounts are reinvested in one or
31 more qualified low-income community investments by the end of
32 the following calendar year. A qualified community development
33 entity shall not be required to reinvest capital returned from
34 qualified low-income community investments after the sixth
35 anniversary of the issuance of the qualified equity investment, and
36 the qualified low-income community investment shall be
37 considered held by the qualified community development entity
38 through the seventh anniversary of the qualified equity investment's
39 issuance.

1 (B) Recaptured tax credits and the related qualified equity
2 investment authority revert back to the committee and shall be
3 reissued in the following order:

4 (i) First, pro rata to applicants whose qualified equity investment
5 allocations were reduced pursuant to subparagraph (B) of paragraph
6 (5) of subdivision (d) by the allocation limitation of forty million
7 dollars (\$40,000,000) in paragraph (8) of subdivision (c).

8 (ii) Thereafter, in accordance with the application process.

9 (C) Enforcement of each of the recapture provisions shall be
10 subject to a six-month cure period. No recapture shall occur until
11 the qualified community development entity shall have been given
12 notice of noncompliance and afforded six months from the date
13 of such notice to cure the noncompliance.

14 (10) Section 45D(i) of the Internal Revenue Code, relating to
15 regulations, shall not apply.

16 (11) Section 45D(h) of the Internal Revenue Code, relating to
17 basis, shall not apply.

18 (12) If a qualified community development entity makes a
19 capital or equity investment or a loan with respect to a qualified
20 low-income building under the state Low-Income Tax Credit
21 Program, the investment or loan is not a qualified low-income
22 community investment under this section.

23 (d) (1) The committee shall adopt guidelines necessary or
24 appropriate to carry out the purposes of this section. The guidelines
25 shall not disqualify a low-income community investment for the
26 single reason that public or private incentives, loans, equity
27 investments, technical assistance, or other forms of support have
28 been or continue to be provided. The adoption of the guidelines
29 shall not be subject to the rulemaking provisions of the
30 Administrative Procedure Act of Chapter 3.5 (commencing with
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
32 Code.

33 (2) The committee shall establish and impose reasonable fees
34 upon entities that apply for the allocation pursuant to this
35 subdivision and use the revenue to defray the cost of administering
36 the program. The committee shall establish the fees in a manner
37 that ensures that (A) the total amount collected equals the amount
38 reasonably necessary to defray the committee's costs in performing
39 its administrative duties under this section, and (B) the amount

1 paid by each entity reasonably corresponds with the value of the
2 services provided to the entity.

3 (3) In developing guidelines the committee shall adopt an
4 allocation process that does all of the following:

5 (A) Creates an equitable distribution process that ensures that
6 low-income communities across the state have an opportunity to
7 benefit from the program.

8 (B) Sets minimum organizational capacity standards that
9 applicants must meet in order to receive an allocation of credits
10 including, but not limited to, its business strategy, community
11 outcomes, capitalization strategy, and management capacity.

12 ~~(C) Provides for the annual return of unused credits by March~~
13 ~~1 of year following the year the credits are awarded so that they~~
14 ~~may be reallocated to other community development entities.~~

15 (4) (A) The committee shall begin accepting applications on
16 March 15, 2015, and shall award credits at least two times a year
17 at dates set annually by the committee through 2019, to the extent
18 that allocations are available pursuant to Section 26011.9 of the
19 Public Resources Code. *To the extent reasonable and consistent*
20 *in carrying out the purposes of this section, the committee shall*
21 *consider how the timing of the state allocation rounds correspond*
22 *with the allocation schedule of the federal New Markets Tax Credit*
23 *Program.*

24 (B) Within 20 calendar days after receipt of an application the
25 committee shall determine whether the application is complete or
26 whether additional information is necessary in order to fully
27 evaluate the application. If additional information is requested and
28 the qualified community development entity provides that
29 information within five business days, the application shall be
30 considered completed as of the original date of receipt. If the
31 qualified community development entity fails to provide the
32 information within the five-business-day period, the application
33 shall be denied and must be resubmitted in full with a new receipt
34 date.

35 (C) Within 20 calendar days after receipt of an application
36 determined to be complete by the committee, the committee shall
37 grant or deny the application in full or in part. If the committee
38 denies any part of the application, it shall inform the qualified
39 community development entity of the grounds for the denial.

1 (5) (A) The committee shall award tax credits to applicants
2 ~~with federal new markets tax credits~~ *qualified community*
3 *development entities described in subparagraph (B) of paragraph*
4 *(4) of subdivision (c)* in the order applications are received by the
5 committee. Applications received on the same day shall be deemed
6 to have been received simultaneously.

7 (i) In 2015, the committee shall only award tax credits to a
8 qualified community development entity ~~that also has federal new~~
9 ~~markets tax credits, that will be used for projects and activities in~~
10 ~~California~~ *entity, exclusive of an entity described in clause (ii) of*
11 *subparagraph (A) of paragraph (4) of subdivision (c)*. In the 2016
12 to 2019 award cycles, inclusive, at least 60 percent of the credit
13 allocation shall be awarded to a qualified community development
14 ~~entity with an allocation of federal new markets tax credits~~ *entity,*
15 *exclusive of an entity described in clause (ii) of subparagraph (A)*
16 *of paragraph (4) of subdivision (c)*. At the committee's discretion,
17 a higher percentage of credits may be targeted to applicants ~~with~~
18 ~~federal new markets tax credits~~ *exclusive of an entity described in*
19 *clause (ii) of subparagraph (A) of paragraph (4) of subdivision*
20 *(c)*.

21 (ii) The committee shall award ~~credits up to 40 percent of the~~
22 ~~credit allocation in the 2016 to 2019, inclusive, award cycles, to~~
23 ~~a qualified community development entity without federal new~~
24 ~~markets tax credits~~ *entity, as described in clause (ii) of*
25 *subparagraph (A) of paragraph (4) of subdivision (c) and*
26 *subparagraph (B) of paragraph (4) of subdivision (c), on a*
27 ~~competitive basis with priority using blind scoring and a review~~
28 ~~committee that is comprised of at least a majority of community~~
29 ~~development finance practitioners. A member of the review~~
30 ~~committee shall not have a financial interest, which includes, but~~
31 ~~is not limited to, asking, consenting, or agreeing to receive any~~
32 ~~commission, emolument, gratuity, money, property, or thing of~~
33 ~~value for his or her own use, benefit, or personal advantage for~~
34 ~~procuring or endeavoring to procure for any person, partnership,~~
35 ~~joint venture, association, or corporation any tax credit or other~~
36 ~~assistance from any applicant. Priority shall given to rural, urban,~~
37 ~~and suburban~~ *applications that can demonstrate that the credits*
38 *will allow the entity to undertake qualified low-income community*
39 *investments in an a rural, suburban, or urban area that has been*
40 ~~historically underserved, underserved or in newly established~~

1 ~~businesses, and real estate development~~ *businesses* that results in
2 the greatest benefit to the largest number of lower income
3 individuals.

4 (B) ~~In~~ *For applications described in clause (i) of subparagraph*
5 *(A), in the event tax credit requests exceed the applicable annual*
6 *allocation limitation of up to forty million dollars (\$40,000,000)*
7 *in paragraph (8) of subdivision (c), the committee shall certify,*
8 *consistent with remaining qualified equity investment capacity,*
9 *qualified equity investments of applicants in proportionate*
10 *percentages based upon the ratio of the amount of qualified equity*
11 *investments requested in such applications to the total amount of*
12 *qualified equity investments requested in all such applications*
13 *received on the same day.*

14 (C) If a pending request cannot be fully certified due to this
15 limit, the committee shall certify the portion that may be certified
16 unless the qualified community development entity elects to
17 withdraw its request rather than receive partial certification.

18 (D) An approved applicant may transfer all or a portion of its
19 certified qualified equity investment authority to its controlling
20 entity or any subsidiary qualified community development entity
21 of the controlling entity, provided that the applicant and the
22 transferee notify the committee of such transfer and include the
23 information required in the application with respect to such
24 transferee with such notice.

25 (E) Within 60 calendar days of the committee sending notice
26 of certification, the qualified community development entity or
27 any transferee, under subparagraph (D), shall issue the qualified
28 ~~equity investment, investment and~~ receive cash in the amount of
29 ~~the certified amount, and, if applicable, designate the required~~
30 ~~amount of qualified equity investment authority as federal qualified~~
31 ~~equity investments amount.~~ The qualified community development
32 entity or transferee, under subparagraph (D), must provide the
33 committee with evidence of the receipt of the cash investment ~~and~~
34 ~~designation of the qualified equity investment as a federal qualified~~
35 ~~equity investment~~ within 65 days of the applicant receiving notice
36 of certification. If the qualified community development entity or
37 any transferee, under subparagraph (D), does not receive the cash
38 ~~investment, investment and~~ issue the qualified equity investment
39 ~~and, if applicable, designate the required amount of qualified equity~~
40 ~~investment authority as federal qualified equity investments~~ within

1 60 calendar days of the committee sending the certification notice,
2 the certification shall lapse and the entity may not issue the
3 qualified equity investment without reapplying to the committee
4 for certification. ~~Only applicants that state in their applications~~
5 ~~that the entity has been awarded a federal new markets tax credit~~
6 ~~shall be required to show evidence, as determined by the~~
7 ~~committee, that the qualified equity investment authority qualifies~~
8 ~~as a federal qualified equity investment.~~ Lapsed certifications
9 revert back to the committee and shall be reissued in the following
10 order:

11 (i) First, pro rata to applicants whose qualified equity investment
12 allocations were reduced pursuant to subparagraph (B) of paragraph
13 (5) under the *annual* allocation limitation of forty million dollars
14 (\$40,000,000) in paragraph (8) of subdivision (c).

15 (ii) Thereafter, in accordance with the application process.

16 (F) A qualified community development entity that issues
17 qualified equity investments must notify the committee of the
18 names of the entities that are eligible to utilize tax credits under
19 paragraph (3) of subdivision (b) pursuant to an allocation of tax
20 credits or change in allocation of tax credits or due to a transfer of
21 a qualified equity investment.

22 (6) (A) A qualified community development entity that issues
23 qualified equity investments shall submit a report to the committee
24 within the first five business days after the first anniversary of the
25 initial credit allowance date that provides documentation as to the
26 investment of at least 85 percent of the purchase price in qualified
27 low-income community investments in qualified active low-income
28 community businesses located in California. Such report shall
29 include all of the following:

30 (i) A bank statement of such qualified community development
31 entity evidencing each qualified low-income community
32 investment.

33 (ii) Evidence that such business was a qualified active
34 low-income community business at the time of such qualified
35 low-income community investment.

36 (iii) Any other information required by the committee.

37 (B) Thereafter, the qualified community development entity
38 shall submit an annual report to the committee within 60 days of
39 the beginning of the calendar year during the seven years following
40 submittal of the report, pursuant to subparagraph (A). No annual

1 report shall be due prior to the first anniversary of the initial credit
2 allowance date. The report shall include, but is not limited to, the
3 following:

4 (i) The impact the credit had on the low-income community.

5 (ii) The amount of moneys used for qualified low-income
6 investments in qualified low-income community businesses.

7 (iii) The number of employment positions created and retained
8 as a result of qualified low-income community investments and
9 the average annual salary of such positions.

10 (iv) The number of operating businesses assisted as a result of
11 qualified low-income community investments, by industry and
12 number of employees.

13 (v) ~~Number of real estate projects and type of community~~
14 ~~development facilities that resulted~~ *owner-occupied real estate*
15 *projects described in subparagraph (E) of paragraph (6) of*
16 *subdivision (c).*

17 (vi) *Location of the qualified low-income community businesses.*

18 (e) In the case where the credit allowed by this section exceeds
19 the tax described in Sections 12201, 12204, 12206, and 12209, the
20 excess may be carried over to reduce that tax in the following year,
21 and the six succeeding years if necessary, until the credit is
22 exhausted.

23 (f) The committee shall annually report on its Internet Web site
24 the information provided by low-income community development
25 entities and on the geographic distribution of the credits.

26 (g) (1) The Franchise Tax Board may prescribe any rules or
27 regulations that may be necessary or appropriate to implement this
28 section. The Franchise Tax Board shall have access to any
29 documentation held by the committee relative to the application
30 and reporting of a qualified community development entity.

31 (2) A qualifying community development entity shall provide
32 the committee with the name, address, and tax identification
33 number of each investor and entity for which a credit was allocated
34 by the qualifying community development entity, pursuant to
35 paragraph (3) of subdivision (b). The committee shall provide this
36 information to the Franchise Tax Board in a manner determined
37 by the Franchise Tax Board.

38 (h) This section shall remain in effect only until December 1,
39 2028, and as of that date is repealed.

SEC. 4. Section 17053.9 is added to the Revenue and Taxation Code, to read:

17053.9. (a) There is hereby created the California New Markets Tax Credit Program as provided in this section, Section 12283, and Section 23622.9. The purpose of this program is to stimulate private sector investment in lower income communities by providing a tax incentive to qualified community and economic development entities that can be leveraged by the entity to attract private sector investment that in turn will be deployed by providing financing and technical assistance to ~~small and medium-size~~ *small- and medium-size* businesses and the development of commercial, ~~industrial~~ *industrial*, and community development projects, including, but not limited to, facilities for nonprofit service organizations, light manufacturing, and mixed-use and transit-oriented development. The California Competes Tax Credit Committee shall administer this program as provided in this section, Section 12283, and Section 23622.9.

(b) (1) For taxable years beginning on or after January 1, 2015, and before January 1, 2027, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount determined in accordance with Section 45D of the Internal Revenue Code, as amended by Public Law 111-5, Public Law 111-312, and Public Law 112-240, as modified as set forth in this section.

(2) This credit shall be allowed only if the taxpayer holds the qualified equity investment, or has been allocated a credit pursuant to paragraph (3), on the credit allowance date and each of the six following anniversary dates of that date.

(3) A tax credit allowed under this section shall not be sold and is not a refundable credit. Tax credits allowed or allocated to a partnership, limited liability company, or “S” corporation may be allocated to the partners, members, managers, or shareholders of such entity for their use in accordance with the provisions of any agreement among such partners, members, managers, or shareholders. Such allocations shall not be considered a sale for the purposes of this section.

(c) Section 45D of the Internal Revenue Code is modified as follows:

(1) (A) The references to “the Secretary” in Section 45D of the Internal Revenue Code are modified to read “the committee.”

1 (B) For purposes of this section, “committee” means the
2 California Competes Tax Credit Committee established under
3 Section 18410.2.

4 (2) Section 45D(a)(2) of the Internal Revenue Code, relating to
5 applicable percentage, is modified by substituting for “(A) 5
6 percent with respect to the first 3 credit allowance dates, and (B)
7 6 percent with respect to the remainder of the credit allowance
8 dates” with the following:

9 (A) Zero percent with respect to the first two credit allowance
10 dates.

11 (B) Seven percent with respect to the third credit allowance
12 date.

13 (C) Eight percent with respect to the remainder of the credit
14 allowance dates.

15 (3) Section 45D(b)(3) of the Internal Revenue Code, relating
16 to safe harbor for determining use of cash, is modified by
17 substituting “qualified low-income community investments in
18 California” for “qualified low-income community investments.”

19 ~~(4)~~

20 (4) (A) Section 45D(c)(1) of the Internal Revenue Code,
21 relating to qualified community development entities, is modified
22 to additionally include:

23 ~~(A)~~

24 (i) A subsidiary community development entity of any such
25 qualified community development entity.

26 ~~(B)~~

27 (ii) A nonprofit organization, pursuant to Section 23701,
28 certified by the committee as having a primary mission of serving
29 or providing investment capital in low-income communities and
30 the entity maintains accountability to residents of low-income
31 communities through their representation on any governing board
32 of the entity or on an advisory board of the entity. The committee
33 shall establish guidelines for certifying nonprofit organizations
34 pursuant to this subparagraph. The committee may include
35 reasonable conditions on the certification to effectuate the intent
36 of this section and may suspend or revoke a certification, after
37 affording the nonprofit organization notice and the opportunity to
38 be heard, if the committee finds that the nonprofit organization no
39 longer meets the requirements for certification. *Such nonprofit*

1 organization is not subject to the requirement of subparagraph
2 (B).

3 (B) Section 45D(c)(1) of the Internal Revenue Code, relating
4 to a qualified community development entity, is modified to only
5 include a qualified community development entity that has entered
6 into an allocation agreement with the Community Development
7 Financial Institutions Fund of the United States Treasury
8 Department, with respect to credits authorized by Section 45D of
9 the Internal Revenue Code, that includes California within the
10 service area and is dated on or after January 1, 2012.

11 (5) Section 45D(d)(1)(A) of the Internal Revenue Code, relating
12 to qualified low-income community investments, is modified to
13 only include any capital or equity investment in, or loan to, a
14 qualified active low-income community business.

15 (6) The term “qualified active low-income community business,”
16 as defined in Section 45D(d)(2) of the Internal Revenue Code is
17 modified as follows:

18 (A) Section 45D(d)(2)(A)(i) of the Internal Revenue Code,
19 relating to qualified active low-income community businesses, is
20 modified by substituting “any low-income community in
21 California” for “any low-income community.”

22 (B) Section 45D(d)(2)(A)(ii) of the Internal Revenue Code,
23 relating to qualified active low-income community businesses, is
24 modified as follows:

25 (i) Substituting “any low-income community in California” for
26 “any low-income community.”

27 (ii) In determining whether the qualified active low-income
28 community business uses a substantial portion of its tangible
29 personal property within any low-income community, the term
30 “substantial portion” shall mean “at least 40 percent” as calculated
31 by the average value of the tangible property owned or leased and
32 used within a California low-income community by the entity
33 divided by the average value of the total tangible property owned
34 or leased and used by the entity in California during the taxable
35 year. The value assigned to the leased property by the entity must
36 be reasonable.

37 (iii) Adding the provision that if the business meets the
38 requirements of a qualified low-income community business at
39 the time the investment is made, the business shall continue to

1 satisfy the requirements of Section 45D(d)(2)(A)(ii) for the duration
2 of the investment.

3 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,
4 relating to qualified active low-income community businesses which
5 limits the services of employees to substantially those performed
6 ~~within the business, a substantial portion of the services of which~~
7 ~~are performed in a low-income community, shall not apply to a~~
8 ~~qualified community development entity that does not hold a~~
9 ~~federal new markets tax credit is modified to allow the services of~~
10 *employees of a service-based qualified business to be performed*
11 *outside the low-income community. A service-based qualified*
12 *business is a business that primarily earns revenue through*
13 *providing intangible products and services.*

14 (D) An entity complies with Section 45D(d)(2)(A)(i) of the
15 Internal Revenue Code, relating to qualified active low-income
16 community business, if, as calculated in subparagraph (B), it uses
17 50 percent of its tangible property, whether owned or leased, within
18 any low-income community for any taxable year.

19 (E) (i) A qualified active low-income community business shall
20 exclude any business that derives, or projects to derive, 15 percent
21 or more of its annual revenue from the rental or sale of real estate.
22 This exclusion does not apply to a business that is controlled by,
23 or under common control with, another business if the second
24 business: (I) does not derive or project to derive 15 percent or more
25 of its annual revenue from the rental or sale of real estate; and (II)
26 is the primary tenant of the real estate leased from the first business.

27 (ii) A qualified active low-income community business shall
28 only include a business that, at the time the initial investment is
29 made, has 250 or fewer employees and is located in a California
30 low-income community. The operating business shall meet all
31 other conditions of a qualified active low-income business, except
32 as modified by this paragraph and paragraph (7).

33 (iii) *A qualified active low-income community business shall*
34 *only include a business located in census tracts with a poverty rate*
35 *greater than 30 percent, or census tracts, if located within a*
36 *non-metropolitan area, with a median family income that does not*
37 *exceed 60 percent of median family income for the State of*
38 *California, or census tracts, if located within a metropolitan area,*
39 *with a median family income that does not exceed 60 percent of*
40 *the greater of the California median family income or the*

1 *metropolitan area median family income, or census tracts with*
2 *unemployment rates at least 1.5 times the national average.*

3 (7) Section 45D(e)(1) of the Internal Revenue Code, relating to
4 determining the eligible low-income community, is modified to
5 add the following: “When the United States Census Bureau
6 discontinues using the decennial census to report median family
7 income on a census tract basis, census block group data shall be
8 used based on the American Community Survey.”

9 (8) The following shall apply in lieu of the provisions of Section
10 45D(f)(1) of the Internal Revenue Code, relating to national
11 limitation on amount of investments designated: “The aggregate
12 amount of credit that may be allocated in any calendar year
13 pursuant to this section, Section 12283, and Section 23622.9 shall
14 be an amount equal to any unused portion of the one hundred
15 million dollars (\$100,000,000) in exclusions, authorized pursuant
16 to Section 6010.8, as determined by the California Alternative
17 Energy and Advanced Transportation Financing Authority and
18 reported to the committee, not to exceed forty million dollars
19 (\$40,000,000). The committee shall limit the allocation of credits
20 permitted under this section, Section 12283, and Section 23622.9
21 to a cumulative total of no more than two hundred million dollars
22 (\$200,000,000). Any unused credits shall be returned to the
23 committee on March 1 of the year following allocation and the
24 value of the unused credit shall be available for allocation in the
25 following calendar years in accordance with the application
26 process. Any recaptured credits shall be returned to the committee
27 by March 1 of the year following recapture and the value of the
28 recaptured credit shall be available for allocation in the following
29 calendar years in accordance with clause (ii) of subparagraph (B)
30 of paragraph (9). Reallocation credits shall not count against the
31 forty million dollars (\$40,000,000) annual limit or the two hundred
32 million dollars (\$200,000,000) cumulative limit.”

33 (9) (A) Section 45D(g)(2)(B) of the Internal Revenue Code,
34 relating to credit recapture amount, is modified to substitute
35 “Section 19101 of this code” for “section 6621”.

36 (B) Section 45D(g)(3) of the Internal Revenue Code, relating
37 to recapture event, does not apply and is replaced with the
38 following:

1 (i) The committee shall recapture, from the entity that claimed
2 the credit on a return, the tax credit allowed under this section if
3 any of the following:

4 (I) Any amount of a federal tax credit available with respect to
5 a qualified equity investment that is eligible for a credit under this
6 section is recaptured under Section 45D of the Internal Revenue
7 Code. In such case the committee's recapture shall be proportionate
8 to the federal recapture with respect to such qualified equity
9 investment.

10 (II) The qualified community development entity redeems or
11 makes principal repayment with respect to a qualified equity
12 investment prior to the seventh anniversary of the issuance of such
13 qualified equity investment. In such case the committee's recapture
14 shall be proportionate to the amount of the redemption or
15 repayment with respect to such qualified equity investment.

16 (III) The qualified community development entity fails to invest
17 an amount equal to at least 85 percent of the purchase price of the
18 qualified equity investment in qualified low-income community
19 investments in California within 12 months of the issuance of the
20 qualified equity investment and maintain at least 85 percent of
21 such level of investment in qualified low-income community
22 investments in California until the last credit allowance date for
23 the qualified equity investment. For purposes of this section, an
24 investment shall be considered held by a qualified community
25 development entity even if the investment has been sold or repaid
26 if the qualified community development entity reinvests an amount
27 equal to the capital returned to, or recovered by, the qualified
28 community development entity from the original investment,
29 exclusive of any profits realized, in another qualified low-income
30 community investment within 12 months of the receipt of such
31 capital. Periodic amounts received as repayment of principal
32 pursuant to regularly scheduled amortization payments on a loan
33 that is a qualified low-income community investment shall be
34 treated as continuously invested in a qualified low-income
35 community investment if the amounts are reinvested in one or
36 more qualified low-income community investments by the end of
37 the following calendar year. A qualified community development
38 entity shall not be required to reinvest capital returned from
39 qualified low-income community investments after the sixth
40 anniversary of the issuance of the qualified equity investment, and

1 the qualified low-income community investment shall be
2 considered held by the qualified community development entity
3 through the seventh anniversary of the qualified equity investment's
4 issuance.

5 (ii) Recaptured tax credits and the related qualified equity
6 investment authority revert back to the committee and shall be
7 reissued in the following order:

8 (I) First, pro rata to applicants whose qualified equity
9 investment allocations were reduced pursuant to subparagraph (B)
10 of paragraph (5) of subdivision (d) by the allocation limitation of
11 forty million dollars (\$40,000,000) in paragraph (8) of subdivision
12 (c).

13 (II) Thereafter, in accordance with the application process.

14 (iii) Enforcement of each of the recapture provisions shall be
15 subject to a six-month cure period. No recapture shall occur until
16 the qualified community development entity shall have been given
17 notice of noncompliance and afforded six months from the date
18 of such notice to cure the noncompliance.

19 (10) Section 45D(i) of the Internal Revenue Code, relating to
20 regulations, shall not apply.

21 ~~(11) Section 45D(h) of the Internal Revenue Code, relating to~~
22 ~~basis, shall not apply.~~

23 ~~(12)~~

24 (11) If a qualified community development entity makes a
25 capital or equity investment or a loan with respect to a qualified
26 low-income building under the state Low-Income Tax Credit
27 Program, the investment or loan is not a qualified low-income
28 community investment under this section.

29 (d) (1) The committee shall adopt guidelines necessary or
30 appropriate to carry out the purposes of this section. The guidelines
31 shall not disqualify a low-income community investment for the
32 single reason that public or private incentives, loans, equity
33 investments, technical assistance, or other forms of support have
34 been or continue to be provided. The adoption of the guidelines
35 shall not be subject to the rulemaking provisions of the
36 Administrative Procedure Act of Chapter 3.5 (commencing with
37 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
38 Code.

39 (2) The committee shall establish and impose reasonable fees
40 upon entities that apply for the allocation pursuant to this

1 subdivision and use the revenue to defray the cost of administering
2 the program. The committee shall establish the fees in a manner
3 that ensures that (A) the total amount collected equals the amount
4 reasonably necessary to defray the committee's costs in performing
5 its administrative duties under this section, and (B) the amount
6 paid by each entity reasonably corresponds with the value of the
7 services provided to the entity.

8 (3) In developing guidelines the committee shall adopt an
9 allocation process that does all of the following:

10 (A) Creates an equitable distribution process that ensures that
11 low-income communities across the state have an opportunity to
12 benefit from the program.

13 (B) Sets minimum organizational capacity standards that
14 applicants must meet in order to receive an allocation of credits
15 including, but not limited to, its business strategy, community
16 outcomes, capitalization strategy, and management capacity.

17 ~~(C) Provides for the annual return of unused credits by March~~
18 ~~1 of the year following the year the credits are awarded so that~~
19 ~~they may be reallocated to other community development entities.~~

20 (4) (A) The committee shall begin accepting applications on
21 March 15, 2015, and shall award credits at least two times a year
22 at dates set annually by the committee through 2019, to the extent
23 that allocations are available pursuant to Section 26011.9 of the
24 Public Resources Code. *To the extent reasonable and consistent*
25 *in carrying out the purposes of this section, the committee shall*
26 *consider how the timing of the state allocation rounds correspond*
27 *with the allocation schedule of the federal New Markets Tax Credit*
28 *Program.*

29 (B) Within 20 calendar days after receipt of an application the
30 committee shall determine whether the application is complete or
31 whether additional information is necessary in order to fully
32 evaluate the application. If additional information is requested and
33 the qualified community development entity provides that
34 information within five business days, the application shall be
35 considered completed as of the original date of receipt. If the
36 qualified community development entity fails to provide the
37 information within the five-business-day period, the application
38 shall be denied and must be resubmitted in full with a new receipt
39 date.

(C) Within 20 calendar days after receipt of an application determined to be complete by the committee, the committee shall grant or deny the application in full or in part. If the committee denies any part of the application, it shall inform the qualified community development entity of the grounds for the denial.

(5) (A) The committee shall award tax credits to ~~applicants with federal new markets tax credits~~ *qualified community development entities described in subparagraph (B) of paragraph (4) of subdivision (c)* in the order applications are received by the committee. Applications received on the same day shall be deemed to have been received simultaneously.

(i) In 2015, the committee shall only award tax credits to a qualified community development ~~entity that also has federal new markets tax credits, that will be used for projects and activities in California~~ *entity, exclusive of an entity described in clause (ii) of subparagraph (A) of paragraph (4) of subdivision (c)*. In the 2016 to 2019 award cycles, inclusive, at least 60 percent of the credit allocation shall be awarded to a qualified community development ~~entity with an allocation of federal new markets tax credits~~ *entity, exclusive of an entity described in clause (ii) of subparagraph (A) of paragraph (4) of subdivision (c)*. At the committee's discretion, a higher percentage of credits may be targeted to applicants ~~with federal new markets tax credits~~ *exclusive of an entity described in clause (ii) of subparagraph (A) of paragraph (4) of subdivision (c)*.

(ii) The committee shall award ~~credits up to 40 percent of the credit allocation in the 2016 to 2019, inclusive, award cycles, to a qualified community development entity without federal new markets tax credits~~ *entity, as described in clause (ii) of subparagraph (A) of paragraph (4) of subdivision (c) and subparagraph (B) of paragraph (4) of subdivision (c), on a competitive basis with priority using blind scoring and a review committee that is comprised of at least a majority of community development finance practitioners. A member of the review committee shall not have a financial interest, which includes, but is not limited to, asking, consenting, or agreeing to receive any commission, emolument, gratuity, money, property, or thing of value for his or her own use, benefit, or personal advantage for procuring or endeavoring to procure for any person, partnership, joint venture, association, or corporation any tax credit or other*

1 *assistance from any applicant. Priority shall given to rural, urban,*
2 *and suburban applications that can demonstrate that the credits*
3 *will allow the entity to undertake qualified low-income community*
4 *investments in an a rural, suburban, or urban area that has been*
5 *historically underserved, underserved or in newly established*
6 *businesses, and real estate development businesses that results in*
7 *the greatest benefit to the largest number of lower income*
8 *individuals.*

9 (B) ~~In~~ *For applications described in clause (i) of subparagraph*
10 *(A), in the event tax credit requests exceed the applicable annual*
11 *allocation limitation of up to forty million dollars (\$40,000,000)*
12 *in paragraph (8) of subdivision (c), the committee shall certify,*
13 *consistent with remaining qualified equity investment capacity,*
14 *qualified equity investments of applicants in proportionate*
15 *percentages based upon the ratio of the amount of qualified equity*
16 *investments requested in such applications to the total amount of*
17 *qualified equity investments requested in all such applications*
18 *received on the same day.*

19 (C) If a pending request cannot be fully certified due to this
20 limit, the committee shall certify the portion that may be certified
21 unless the qualified community development entity elects to
22 withdraw its request rather than receive partial certification.

23 (D) An approved applicant may transfer all or a portion of its
24 certified qualified equity investment authority to its controlling
25 entity or any subsidiary qualified community development entity
26 of the controlling entity, provided that the applicant and the
27 transferee notify the committee of such transfer and include the
28 information required in the application with respect to such
29 transferee with such notice.

30 (E) Within 60 calendar days of the committee sending notice
31 of certification, the qualified community development entity or
32 any transferee, under subparagraph (D), shall issue the qualified
33 equity investment, investment and receive cash in the amount of
34 the certified amount, and, if applicable, designate the required
35 amount of qualified equity investment authority as federal qualified
36 equity investments amount. The qualified community development
37 entity or transferee, under subparagraph (D), must provide the
38 committee with evidence of the receipt of the cash investment and
39 designation of the qualified equity investment as a federal qualified
40 equity investment within 65 days of the applicant receiving notice

1 of certification. If the qualified community development entity or
2 any transferee, under subparagraph (D), does not receive the cash
3 ~~investment~~, *investment* and issue the qualified equity investment
4 and, if applicable, designate the required amount of qualified equity
5 investment authority as federal qualified equity investments within
6 60 calendar days of the committee sending the certification notice,
7 the certification shall lapse and the entity may not issue the
8 qualified equity investment without reapplying to the committee
9 for certification. ~~Only applicants that state in their applications~~
10 ~~that the entity has been awarded a federal new markets tax credit~~
11 ~~shall be required to show evidence, as determined by the~~
12 ~~committee, that the qualified equity investment authority qualifies~~
13 ~~as a federal qualified equity investment.~~ Lapsed certifications
14 revert back to the committee and shall be reissued in the following
15 order:

16 (i) First, pro rata to applicants whose qualified equity investment
17 allocations were reduced pursuant to subparagraph (B) of paragraph
18 (5) under the *annual* allocation limitation of forty million dollars
19 (\$40,000,000) in paragraph (8) of subdivision (c).

20 (ii) Thereafter, in accordance with the application process.

21 (F) A qualified community development entity that issues
22 qualified equity investments must notify the committee of the
23 names of the entities that are eligible to utilize tax credits under
24 paragraph (3) of subdivision (b) pursuant to an allocation of tax
25 credits or change in allocation of tax credits or due to a transfer of
26 a qualified equity investment.

27 (6) (A) A qualified community development entity that issues
28 qualified equity investments shall submit a report to the committee
29 within the first five business days after the first anniversary of the
30 initial credit allowance date that provides documentation as to the
31 investment of at least 85 percent of the purchase price in qualified
32 low-income community investments in qualified active low-income
33 community businesses located in California. Such report shall
34 include all of the following:

35 (i) A bank statement of such qualified community development
36 entity evidencing each qualified low-income community
37 investment.

38 (ii) Evidence that such business was a qualified active
39 low-income community business at the time of such qualified
40 low-income community investment.

1 (iii) Any other information required by the committee.

2 (B) Thereafter, the qualified community development entity
3 shall submit an annual report to the committee within 60 days of
4 the beginning of the calendar year during the seven years following
5 submittal of the report, pursuant to subparagraph (A). No annual
6 report shall be due prior to the first anniversary of the initial credit
7 allowance date. The report shall include, but is not limited to, the
8 following:

9 (i) The impact the credit had on the low-income community.

10 (ii) The amount of moneys used for qualified low-income
11 investments in qualified low-income community businesses.

12 (iii) The number of employment positions created and retained
13 as a result of qualified low-income community investments and
14 the average annual salary of such positions.

15 (iv) The number of operating businesses assisted as a result of
16 qualified low-income community investments, by industry and
17 number of employees.

18 (v) ~~Number of real estate projects and type of community~~
19 ~~development facilities that resulted~~ *owner-occupied real estate*
20 *projects described in subparagraph (E) of paragraph (6) of*
21 *subdivision (c).*

22 (vi) *Location of the qualified low-income community businesses.*

23 (e) In the case where the credit allowed by this section exceeds
24 the “net tax,” the excess may be carried over to reduce the “net
25 tax” in the following year, and the six succeeding years if
26 necessary, until the credit is exhausted.

27 (f) The committee shall annually report on its Internet Web site
28 the information provided by low-income community development
29 entities and on the geographic distribution of the credits.

30 (g) (1) The Franchise Tax Board may prescribe any rules or
31 regulations that may be necessary or appropriate to implement this
32 section. The Franchise Tax Board shall have access to any
33 documentation held by the committee relative to the application
34 and reporting of a qualified community development entity.

35 (2) A qualifying community development entity shall provide
36 the committee with the name, address, and tax identification
37 number of each investor and entity for which a credit was allocated
38 by the qualifying community development entity, pursuant to
39 paragraph (3) of subdivision (b). The committee shall provide this

1 information to the Franchise Tax Board in a manner determined
2 by the Franchise Tax Board.

3 (h) This section shall remain in effect only until December 1,
4 2028, and as of that date is repealed.

5 SEC. 5. Section 18410.2 of the Revenue and Taxation Code
6 is amended to read:

7 18410.2. (a) The California Competes Tax Credit Committee
8 is hereby established. The committee shall consist of the Treasurer,
9 the Director of Finance, and the Director of the Governor's Office
10 of Business and Economic Development, who shall serve as chair
11 of the committee, or their designated representatives, and one
12 appointee each by the Speaker of the Assembly and the Senate
13 Committee on Rules. A Member of the Legislature shall not be
14 appointed.

15 (b) For purposes of Sections 12283, 17053.9, 17059.2, 23622.9,
16 and 23689 the California Competes Tax Credit Committee shall
17 do all of the following:

18 (1) Approve or reject any written agreement for a tax credit
19 allocation by resolution at a duly noticed public meeting held in
20 accordance with the Bagley-Keene Open Meeting Act (Article 9
21 (commencing with Section 11120) of Chapter 1 of Part 1 of
22 Division 3 of Title 2 of the Government Code), but only after
23 receipt of the fully executed written agreement between the
24 taxpayer and the Governor's Office of Business and Economic
25 Development.

26 (2) Approve or reject any recommendation to recapture, in whole
27 or in part, a tax credit allocation by resolution at a duly noticed
28 public meeting held in accordance with the Bagley-Keene Open
29 Meeting Act (Article 9 (commencing with Section 11120) of
30 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
31 Code), but only after receipt of the recommendation from the
32 Governor's Office of Business and Economic Development
33 pursuant to the terms of the fully executed written agreement.

34 SEC. 6. Section 23622.9 is added to the Revenue and Taxation
35 Code, to read:

36 23622.9. (a) There is hereby created the California New
37 Markets Tax Credit Program as provided in this section, Section
38 12283, and Section 17053.9. The purpose of this program is to
39 stimulate private sector investment in lower income communities
40 by providing a tax incentive to qualified community and economic

1 development entities that can be leveraged by the entity to attract
2 private sector investment that in turn will be deployed by providing
3 financing and technical assistance to small- and medium-size
4 businesses and the development of commercial, ~~industrial~~
5 *industrial*, and community development projects, including, but
6 not limited to, facilities for nonprofit service organizations, light
7 manufacturing, and mixed-use and transit-oriented development.
8 The California Competes Tax Credit Committee shall administer
9 this program as provided in this section, Section 12283, and Section
10 17053.9.

11 (b) (1) For taxable years beginning on or after January 1, 2015,
12 and before January 1, 2027, there shall be allowed as a credit
13 against the “tax,” as defined in Section 23036, an amount
14 determined in accordance with Section 45D of the Internal Revenue
15 Code, as amended by Public Law 111-5, Public Law 111-312, and
16 Public Law 112-240, as modified as set forth in this section.

17 (2) This credit shall be allowed only if the taxpayer holds the
18 qualified equity investment, or has been allocated a credit pursuant
19 to paragraph (3), on the credit allowance date and each of the six
20 following anniversary dates of that date.

21 (3) A tax credit allowed under this section shall not be sold and
22 is not a refundable credit. Tax credits allowed or allocated to a
23 partnership, limited liability company, or “S” corporation may be
24 allocated to the partners, members, managers, or shareholders of
25 such entity for their use in accordance with the provisions of any
26 agreement among such partners, members, managers, or
27 shareholders. Such allocations shall not be considered a sale for
28 the purposes of this section.

29 (c) Section 45D of the Internal Revenue Code is modified as
30 follows:

31 (1) (A) The references to “the Secretary” in Section 45D of the
32 Internal Revenue Code are modified to read “the committee.”

33 (B) For purposes of this section, “committee” means the
34 California Competes Tax Credit Committee established under
35 Section 18410.2.

36 (2) Section 45D(a)(2) of the Internal Revenue Code, relating to
37 applicable percentage, is modified by substituting for “(A) 5
38 percent with respect to the first 3 credit allowance dates, and (B)
39 6 percent with respect to the remainder of the credit allowance
40 dates” with the following:

1 (A) Zero percent with respect to the first two credit allowance
2 dates.

3 (B) Seven percent with respect to the third credit allowance
4 date.

5 (C) Eight percent with respect to the remainder of the credit
6 allowance dates.

7 (3) Section 45D(b)(3) of the Internal Revenue Code, relating
8 to safe harbor for determining use of cash, is modified by
9 substituting “qualified low-income community investments in
10 California” for “qualified low-income community investments.”

11 ~~(4)~~

12 (4) (A) Section 45D(c)(1) of the Internal Revenue Code,
13 relating to qualified community development entities, is modified
14 to additionally include:

15 ~~(A)~~

16 (i) A subsidiary community development entity of any such
17 qualified community development entity.

18 ~~(B)~~

19 (ii) A nonprofit organization, pursuant to Section 23701,
20 certified by the committee as having a primary mission of serving
21 or providing investment capital in low-income communities and
22 the entity maintains accountability to residents of low-income
23 communities through their representation on any governing board
24 of the entity or on an advisory board of the entity. The committee
25 shall establish guidelines for certifying nonprofit organizations
26 pursuant to this subparagraph. The committee may include
27 reasonable conditions on the certification to effectuate the intent
28 of this section and may suspend or revoke a certification, after
29 affording the nonprofit organization notice and the opportunity to
30 be heard, if the committee finds that the nonprofit organization no
31 longer meets the requirements for certification. *Such nonprofit*
32 *organization is not subject to the requirement of subparagraph*
33 *(B).*

34 (B) *Section 45D(c)(1) of the Internal Revenue Code, relating*
35 *to a qualified community development entity, is modified to only*
36 *include a qualified community development entity that has entered*
37 *into an allocation agreement with the Community Development*
38 *Financial Institutions Fund of the United States Treasury*
39 *Department, with respect to credits authorized by Section 45D of*

1 *the Internal Revenue Code, that includes California within the*
2 *service area and is dated on or after January 1, 2012.*

3 (5) Section 45D(d)(1)(A) of the Internal Revenue Code, relating
4 to qualified low-income community investments, is modified to
5 only include any capital or equity investment in, or loan to, a
6 qualified active low-income community business.

7 (6) The term “qualified active low-income community business,”
8 as defined in Section 45D(d)(2) of the Internal Revenue Code is
9 modified as follows:

10 (A) Section 45D(d)(2)(A)(i) of the Internal Revenue Code,
11 relating to qualified active low-income community businesses, is
12 modified by substituting “any low-income community in
13 California” for “any low-income community.”

14 (B) Section 45D(d)(2)(A)(ii) of the Internal Revenue Code,
15 relating to qualified active low-income community businesses, is
16 modified as follows:

17 (i) Substituting “any low-income community in California” for
18 “any low-income community.”

19 (ii) In determining whether the qualified active low-income
20 community business uses a substantial portion of its tangible
21 personal property within any low-income community, the term
22 “substantial portion” shall mean “at least 40 percent” as calculated
23 by the average value of the tangible property owned or leased and
24 used within a California low-income community by the entity
25 divided by the average value of the total tangible property owned
26 or leased and used by the entity in California during the taxable
27 year. The value assigned to the leased property by the entity must
28 be reasonable.

29 (iii) Adding the provision that if the business meets the
30 requirements of a qualified low-income community business at
31 the time the investment is made, the business shall continue to
32 satisfy the requirements of Section 45D(d)(2)(A)(ii) for the duration
33 of the investment.

34 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,
35 relating to qualified active low-income community businesses
36 ~~which limits the services of employees to substantially those~~
37 ~~performed within the business, a substantial portion of the services~~
38 ~~of which are performed in a low-income community, shall not~~
39 ~~apply to a qualified community development entity that does not~~
40 ~~hold a federal new markets tax credit is modified to allow the~~

1 *services of employees of a service-based qualified business to be*
2 *performed outside the low-income community. A service-based*
3 *qualified business is a business that primarily earns revenue*
4 *through providing intangible products and services.*

5 (D) An entity complies with Section 45D(d)(2)(A)(i) of the
6 Internal Revenue Code, relating to qualified active low-income
7 community business, if, as calculated in subparagraph (B), it uses
8 50 percent of its tangible property, whether owned or leased, within
9 any low-income community for any taxable year.

10 (E) (i) A qualified active low-income community business shall
11 exclude any business that derives, or projects to derive, 15 percent
12 or more of its annual revenue from the rental or sale of real estate.
13 This exclusion does not apply to a business that is controlled by,
14 or under common control with, another business if the second
15 business: (I) does not derive or project to derive 15 percent or more
16 of its annual revenue from the rental or sale of real estate; and (II)
17 is the primary tenant of the real estate leased from the first business.

18 (ii) A qualified active low-income community business shall
19 only include a business that, at the time the initial investment is
20 made, has 250 or fewer employees and is located in a California
21 low-income community. The operating business shall meet all
22 other conditions of a qualified active low-income business, except
23 as modified by this paragraph and paragraph (7).

24 (iii) *A qualified active low-income community business shall*
25 *only include a business located in census tracts with a poverty rate*
26 *greater than 30 percent, or census tracts, if located within a*
27 *non-metropolitan area, with a median family income that does not*
28 *exceed 60 percent of median family income for the State of*
29 *California, or census tracts, if located within a metropolitan area,*
30 *with a median family income that does not exceed 60 percent of*
31 *the greater of the California median family income or the*
32 *metropolitan area median family income, or census tracts with*
33 *unemployment rates at least 1.5 times the national average.*

34 (7) Section 45D(e)(1) of the Internal Revenue Code, relating to
35 determining the eligible low-income community is modified to
36 add the following: “When the United States Census Bureau
37 discontinues using the decennial census to report median family
38 income on a census tract basis, census block group data shall be
39 used based on the American Community Survey.”

(8) The following shall apply in lieu of the provisions of Section ~~45(D)(f)(1)~~ 45D(f)(1) of the Internal Revenue Code, relating to national limitation on amount of investments designated: “The aggregate amount of credit that may be allocated in any calendar year pursuant to this section, Section 12283, and Section 17053.9 shall be an amount equal to any unused portion of the one hundred million dollars (\$100,000,000) in exclusions, authorized pursuant to Section 6010.8, as determined by the California Alternative Energy and Advanced Transportation Financing Authority and reported to the committee, not to exceed forty million dollars (\$40,000,000). The committee shall limit the allocation of credits permitted under this section, Section 12283, and Section 17053.9 to a cumulative total of no more than two hundred million dollars (\$200,000,000). Any unused credits shall be returned to the committee on March 1 of the year following allocation and the value of the unused credit shall be available for allocation in the following calendar years in accordance with the application process. Any recaptured credits shall be returned to the committee by March 1 of the year following recapture and the value of the recaptured credit shall be available for allocation in the following calendar years in accordance with clause (ii) of subparagraph (B) of paragraph (9). Reallocation credits shall not count against the forty million dollars (\$40,000,000) annual limit or the two hundred million dollars (\$200,000,000) cumulative limit.”

(9) (A) Section 45D(g)(2)(B) of the Internal Revenue Code, relating to credit recapture amount, is modified to substitute “Section 19101 of this code” for “section 6621”.

(B) Section 45D(g)(3) of the Internal Revenue Code, relating to recapture event, does not apply and is replaced with the following:

(i) The committee shall recapture, from the entity that claimed the credit on a return, the tax credit allowed under this section if any of the following:

(I) Any amount of a federal tax credit available with respect to a qualified equity investment that is eligible for a credit under this section is recaptured under Section 45D of the Internal Revenue Code. In such case the committee’s recapture shall be proportionate to the federal recapture with respect to such qualified equity investment.

1 (II) The qualified community development entity redeems or
2 makes principal repayment with respect to a qualified equity
3 investment prior to the seventh anniversary of the issuance of such
4 qualified equity investment. In such case the committee's recapture
5 shall be proportionate to the amount of the redemption or
6 repayment with respect to such qualified equity investment.

7 (III) The qualified community development entity fails to invest
8 an amount equal to at least 85 percent of the purchase price of the
9 qualified equity investment in qualified low-income community
10 investments in California within 12 months of the issuance of the
11 qualified equity investment and maintain at least 85 percent of
12 such level of investment in qualified low-income community
13 investments in California until the last credit allowance date for
14 the qualified equity investment. For purposes of this section, an
15 investment shall be considered held by a qualified community
16 development entity even if the investment has been sold or repaid
17 if the qualified community development entity reinvests an amount
18 equal to the capital returned to, or recovered by, the qualified
19 community development entity from the original investment,
20 exclusive of any profits realized, in another qualified low-income
21 community investment within 12 months of the receipt of such
22 capital. Periodic amounts received as repayment of principal
23 pursuant to regularly scheduled amortization payments on a loan
24 that is a qualified low-income community investment shall be
25 treated as continuously invested in a qualified low-income
26 community investment if the amounts are reinvested in one or
27 more qualified low-income community investments by the end of
28 the following calendar year. A qualified community development
29 entity shall not be required to reinvest capital returned from
30 qualified low-income community investments after the sixth
31 anniversary of the issuance of the qualified equity investment, and
32 the qualified low-income community investment shall be
33 considered held by the qualified community development entity
34 through the seventh anniversary of the qualified equity investment's
35 issuance.

36 (ii) Recaptured tax credits and the related qualified equity
37 investment authority revert back to the committee and shall be
38 reissued in the following order:

39 (I) First, pro rata to applicants whose qualified equity investment
40 allocations were reduced pursuant to subparagraph (B) of paragraph

1 (5) of subdivision (d) by the allocation limitation of forty million
2 dollars (\$40,000,000) in paragraph (8) of subdivision (c).

3 (II) Thereafter, in accordance with the application process.

4 (iii) Enforcement of each of the recapture provisions shall be
5 subject to a six month cure period. No recapture shall occur until
6 the qualified community development entity shall have been given
7 notice of noncompliance and afforded six months from the date
8 of such notice to cure the noncompliance.

9 (10) Section 45D(i) of the Internal Revenue Code, relating to
10 regulations, shall not apply.

11 ~~(11) Section 45D(h) of the Internal Revenue Code, relating to~~
12 ~~basis, shall not apply.~~

13 ~~(12)~~

14 (11) If a qualified community development entity makes a
15 capital or equity investment or a loan with respect to a qualified
16 low-income building under the state Low-Income Tax Credit
17 Program, the investment or loan is not a qualified low-income
18 community investment under this section.

19 (d) (1) The committee shall adopt guidelines necessary or
20 appropriate to carry out the purposes of this section. The guidelines
21 shall not disqualify a low-income community investment for the
22 single reason that public or private incentives, loans, equity
23 investments, technical assistance, or other forms of support have
24 been or continue to be provided. The adoption of the guidelines
25 shall not be subject to the rulemaking provisions of the
26 Administrative Procedure Act of Chapter 3.5 (commencing with
27 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
28 Code.

29 (2) The committee shall establish and impose reasonable fees
30 upon entities that apply for the allocation pursuant to this
31 subdivision and use the revenue to defray the cost of administering
32 the program. The committee shall establish the fees in a manner
33 that ensures that (A) the total amount collected equals the amount
34 reasonably necessary to defray the committee's costs in performing
35 its administrative duties under this section, and (B) the amount
36 paid by each entity reasonably corresponds with the value of the
37 services provided to the entity.

38 (3) In developing guidelines the committee shall adopt an
39 allocation process that does all of the following:

1 (A) Creates an equitable distribution process that ensures that
2 low-income communities across the state have an opportunity to
3 benefit from the program.

4 (B) Sets minimum organizational capacity standards that
5 applicants must meet in order to receive an allocation of credits
6 including, but not limited to, its business strategy, community
7 outcomes, capitalization strategy, and management capacity.

8 ~~(C) Provides for the annual return of unused credits by March~~
9 ~~1 of the year following the year the credits are awarded so that~~
10 ~~they may be reallocated to other community development entities.~~

11 (4) (A) The committee shall begin accepting applications on
12 March 15, 2015, and shall award credits at least two times a year
13 at dates set annually by the committee through 2019, to the extent
14 that allocations are available pursuant to Section 26011.9 of the
15 Public Resources Code. *To the extent reasonable and consistent*
16 *in carrying out the purposes of this section, the committee shall*
17 *consider how the timing of the state allocation rounds correspond*
18 *with the allocation schedule of the federal New Markets Tax Credit*
19 *Program.*

20 (B) Within 20 calendar days after receipt of an application the
21 committee shall determine whether the application is complete or
22 whether additional information is necessary in order to fully
23 evaluate the application. If additional information is requested and
24 the qualified community development entity provides that
25 information within five business days, the application shall be
26 considered completed as of the original date of receipt. If the
27 qualified community development entity fails to provide the
28 information within the five-business-day period, the application
29 shall be denied and must be resubmitted in full with a new receipt
30 date.

31 (C) Within 20 calendar days after receipt of an application
32 determined to be complete by the committee, the committee shall
33 grant or deny the application in full or in part. If the committee
34 denies any part of the application, it shall inform the qualified
35 community development entity of the grounds for the denial.

36 (5) (A) The committee shall award tax credits to ~~applicants~~
37 ~~with federal new markets tax credits~~ *qualified community*
38 *development entities described in subparagraph (B) of paragraph*
39 *(4) of subdivision (c)* in the order applications are received by the

committee. Applications received on the same day shall be deemed to have been received simultaneously.

(i) In 2015, the committee shall only award tax credits to a qualified community development entity that also has federal new markets tax credits, that will be used for projects and activities in California entity, exclusive of an entity described in clause (ii) of subparagraph (A) of paragraph (4) of subdivision (c). In the 2016 to 2019 award cycles, inclusive, at least 60 percent of the credit allocation shall be awarded to a qualified community development entity with an allocation of federal new markets tax credits entity, exclusive of an entity described in clause (ii) of subparagraph (A) of paragraph (4) of subdivision (c). At the committee's discretion, a higher percentage of credits may be targeted to applicants with federal new markets tax credits exclusive of an entity described in clause (ii) of subparagraph (A) of paragraph (4) of subdivision (c).

(ii) The committee shall award credits to up to 40 percent of the credit allocation in the 2016 to 2019 award cycles, inclusive, to a qualified community development entity without federal new markets tax credits entity, as described in clause (ii) of subparagraph (A) of paragraph (4) of subdivision (c) and subparagraph (B) of paragraph (4) of subdivision (c), on a competitive basis with priority using blind scoring and a review committee that is comprised of at least a majority of community development finance practitioners. A member of the review committee shall not have a financial interest, which includes, but is not limited to, asking, consenting, or agreeing to receive any commission, emolument, gratuity, money, property, or thing of value for his or her own use, benefit, or personal advantage for procuring or endeavoring to procure for any person, partnership, joint venture, association, or corporation any tax credit or other assistance from any applicant. Priority shall given to rural, urban, and suburban applications that can demonstrate that the credits will allow the entity to undertake qualified low-income community investments in an a rural, suburban, or urban area that has been historically underserved, underserved or in newly established businesses, and real estate development businesses that results in the greatest benefit to the largest number of lower income individuals.

1 (B) ~~In~~ For applications described in clause (i) of subparagraph
2 (A), in the event tax credit requests exceed the applicable annual
3 allocation limitation of up to forty million dollars (\$40,000,000)
4 in paragraph (8) of subdivision (c), the committee shall certify,
5 consistent with remaining qualified equity investment capacity,
6 qualified equity investments of applicants in proportionate
7 percentages based upon the ratio of the amount of qualified equity
8 investments requested in such applications to the total amount of
9 qualified equity investments requested in all such applications
10 received on the same day.

11 (C) If a pending request cannot be fully certified due to this
12 limit, the committee shall certify the portion that may be certified
13 unless the qualified community development entity elects to
14 withdraw its request rather than receive partial certification.

15 (D) An approved applicant may transfer all or a portion of its
16 certified qualified equity investment authority to its controlling
17 entity or any subsidiary qualified community development entity
18 of the controlling entity, provided that the applicant and the
19 transferee notify the committee of such transfer and include the
20 information required in the application with respect to such
21 transferee with such notice.

22 (E) Within 60 calendar days of the committee sending notice
23 of certification, the qualified community development entity or
24 any transferee, under subparagraph (D), shall issue the qualified
25 equity investment, investment and receive cash in the amount of
26 the certified amount, and, if applicable, designate the required
27 amount of qualified equity investment authority as federal qualified
28 equity investments amount. The qualified community development
29 entity or transferee, under subparagraph (D), must provide the
30 committee with evidence of the receipt of the cash investment and
31 designation of the qualified equity investment as a federal qualified
32 equity investment within 65 days of the applicant receiving notice
33 of certification. If the qualified community development entity or
34 any transferee, under subparagraph (D), does not receive the cash
35 investment, investment and issue the qualified equity investment
36 and, if applicable, designate the required amount of qualified equity
37 investment authority as federal qualified equity investments within
38 60 calendar days of the committee sending the certification notice,
39 the certification shall lapse and the entity may not issue the
40 qualified equity investment without reapplying to the committee

1 for certification. ~~Only applicants that state in their applications~~
2 ~~that the entity has been awarded a federal new markets tax credit~~
3 ~~shall be required to show evidence, as determined by the~~
4 ~~committee, that the qualified equity investment authority qualifies~~
5 ~~as a federal qualified equity investment.~~ Lapsed certifications
6 revert back to the committee and shall be reissued in the following
7 order:

8 (i) First, pro rata to applicants whose qualified equity investment
9 allocations were reduced pursuant to subparagraph (B) of paragraph
10 (5) under the *annual* allocation limitation of forty million dollars
11 (\$40,000,000) in paragraph (8) of subdivision (c).

12 (ii) Thereafter, in accordance with the application process.

13 (F) A qualified community development entity that issues
14 qualified equity investments must notify the committee of the
15 names of the entities that are eligible to utilize tax credits under
16 paragraph (3) of subdivision (b) pursuant to an allocation of tax
17 credits or change in allocation of tax credits or due to a transfer of
18 a qualified equity investment.

19 (6) (A) A qualified community development entity that issues
20 qualified equity investments shall submit a report to the committee
21 within the first five business days after the first anniversary of the
22 initial credit allowance date that provides documentation as to the
23 investment of at least 85 percent of the purchase price in qualified
24 low-income community investments in qualified active low-income
25 community businesses located in California. Such report shall
26 include all of the following:

27 (i) A bank statement of such qualified community development
28 entity evidencing each qualified low-income community
29 investment.

30 (ii) Evidence that such business was a qualified active
31 low-income community business at the time of such qualified
32 low-income community investment.

33 (iii) Any other information required by the committee.

34 (B) Thereafter, the qualified community development entity
35 shall submit an annual report to the committee within 60 days of
36 the beginning of the calendar year during the seven years following
37 submittal of the report, pursuant to subparagraph (A). No annual
38 report shall be due prior to the first anniversary of the initial credit
39 allowance date. The report shall include, but is not limited to, the
40 following:

- 1 (i) The impact the credit had on the low-income community.
2 (ii) The amount of moneys used for qualified low-income
3 investments in qualified low-income community businesses.
4 (iii) The number of employment positions created and retained
5 as a result of qualified low-income community investments and
6 the average annual salary of such positions.
7 (iv) The number of operating businesses assisted as a result of
8 qualified low-income community investments, by industry and
9 number of employees.
10 (v) ~~Number of real estate projects and type of community~~
11 ~~development facilities that resulted~~ *owner-occupied real estate*
12 *projects described in subparagraph (E) of paragraph (6) of*
13 *subdivision (c).*
14 (vi) *Location of the qualified low-income community businesses.*
15 (e) In the case where the credit allowed by this section exceeds
16 the “tax,” the excess may be carried over to reduce the “tax” in
17 the following year, and the six succeeding years if necessary, until
18 the credit is exhausted.
19 (f) The committee shall annually report on its Internet Web site
20 the information provided by low-income community development
21 entities and on the geographic distribution of the credits.
22 (g) (1) The Franchise Tax Board may prescribe any rules or
23 regulations that may be necessary or appropriate to implement this
24 section. The Franchise Tax Board shall have access to any
25 documentation held by the committee relative to the application
26 and reporting of a qualified community development entity.
27 (2) A qualifying community development entity shall provide
28 the committee with the name, address, and tax identification
29 number of each investor and entity for which a credit was allocated
30 by the qualifying community development entity, pursuant to
31 paragraph (3) of subdivision (b). The committee shall provide this
32 information to the Franchise Tax Board in a manner determined
33 by the Franchise Tax Board.
34 (h) This section shall remain in effect only until December 1,
35 2028, and as of that date is repealed.
36 SEC. 7. This act provides for a tax levy within the meaning of
37 Article IV of the Constitution and shall go into immediate effect.

O